HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 289 of 2004 (M/S)

Suresh Chandra Bhatt

VS

Chairman and others

Approved for reporting.

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~~Not approved~~ for reporting

Date of decision 11.10.2004

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 289 of 2004 (MS)

Suresh Chandra Bhatt ..... Petitioner

Versus

Chairman & others ..... Respondents

Sri Sudhir Singh, Advocate for the petitioner
Sri S.K. Posti, Advocate for the respondents.

Dated: 11.10.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 16.10.2003 passed by the Regional Transport Authority, Kumanon Division Kathgodam.

Briefly stated the petitioner was granted a permit No. PSTP 41K/Kumaon for Haldwani Zone on 18.8.1969 in which various routs were notified according to the scheme framed under the Motor Vehicles Act. The permit of the petitioner expired on 17.8.1998 and he applied for its renewal. The respondent no.2 granted a fresh permit in continuation of the old permit in favour of the petitioner in pursuance of the meeting dated 29/30.7.2003. The petitioner has submitted that a total of 43 permits were granted vide order dated 16.9.2003 by the respondents. The respondent no.3 & 4 filed a revision being Revision No. 7/2003 before the respondent no.1 alleging

therein that all the 43 permits granted by the respondent no.2 vide order dated 16.09.2003 are illegal as the same are not covered by the scheme framed under section 99 and 100 of the M.V.Act. The respondent no.1 apart from issuing notices to all the respondents directed the respondent no.2 and the petitioner along with other respondents in the revision to maintain status quo with regard to the grant of permit vide order dated 16.10.2003, as the result the petitioner could not take permit from the office or respondent no.2. The petitioner has submitted that the said case is still pending.

The respondents have filed counter affidavit and have contended that the private operates were allowed to oprate 53 services on notified route Haldwani-Ranikhet and all the prescribed services were allowed in respect of those vehicles which were operating under the management of Kumanon Motor Owners Union Ltd. Vide notification dated 27.8.93 the services on the notified route were increased from 53 to 54 and it was resolved in the meeting held on 27.10.93, that the services shall be plied as allowed under the notification. It has been contended that on 4.9.1999 a total 325 buses were operating under the Management of M/S Kumaon Motor Owners Union Ltd. And it has not been restricted that if the number is exceeded permit for notified routes shall not be granted and as such irrespective of any number of permits, only 54 services shall be plied on Haldwani-Ranikhet route in rotation under the mandatory condition that the vehicle shall be plied under the management of aforesaid Union.

The petitioner has filed copy of judgment passed by the Division Bench of this High Court in WP No. 128 of 2001 (SB)

and W.P. No. 184 of 2001 (SB) and has prayed that the case of the petitioner is similar, hence it should be decided in terms of the order passed in the aforesaid writ petitions.

The Division Bench of the Court has passed the following order:

"learned counsel for the petitioner has referred the judgment in the case of Ram Krishna Verma vs. State of U.P. & others reported in AIR 1992 SC 1888. The aid case law is not applicable to the facts of the present case as in the present case, the petitioner himself has admitted that the route known as Haldwani-Ranikhet via Kathgodam-khairna route is a nationalised route and in view of section 100 & 104 of the Motor Vehicles Act, the respondents are entitled to issue permits and no interference an be made under Article 226 of the Constitution of India. The other case law which was referred by the learned counsel for the petitioner is the case of Gajraj Singh vs. State Transport Appellate Tribunal & others reported in AIR 1997 Supreme Court 412. This case law has specifically provided that the renewal of the permits under the repealed Act granted to the private operators do not find place under Chapter 6 of the Act. Chapter 6 of the Act deals with the grant of the permits in accordance with Section 103 of the Motor Vehicle Act in respect of a notified area.

Since, both the parties have admitted that Haldwani-Ranikhet via Kathgodam-Khairna route is a notified route and as such, we find no illegality in granting the permit on the said route by the respondents.

In view of the aforesaid, we do not find any merit in these writ petitions. Therefore, both the writ petitions are dismissed. There will be no order as to the costs."

The present writ petition is disposed of in terms of the order passed by the Division Bench in Writ Petition No. 128 of 2001 (SB) and Writ Petition No. 184 of 2001 (SB). No order as to costs.

(Rajesh Tandon J.)

11.10.2004
*Dhyani